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CRIMINAL LAW—LARCENY—INTENT—INTOXICATION.—While the rule is general that one who voluntarily intoxicates himself and beclouds his reason cannot set up such condition in excuse or mitigation of a crime committed while in that condition, yet, in cases in which a specific or particular intent or purpose is an essential or constituent element of the offense, as in the case of larceny, intoxication, even though voluntary, becomes a matter for consideration. If the mental status required by law to constitute crime be one of deliberation and premeditation, and drunkenness excludes the existence of such a mental state, then the particular crime charged is not excused by drunkenness, *but has not in fact been committed.* *State v. Kavanaugh* (Ct. Gen. Sess. Delaware), 53 Atl. 335.

We believe this distinction, in cases of larceny, eminently just. To the completeness of the case for the prosecution, proof of the *animus furandi* is essential, a necessary element in which is the ability of the accused to distinguish property rights—to know that he is laying his hands upon property not his own. The larger number of decisions, both in Virginia and elsewhere, to the effect that drunkenness is no excuse for crime, are cases of homicide or assault. The weight of authority in prosecutions for larceny is said in the principal case to be in accord with its ruling that evidence is admissible to determine whether the accused was capable of forming the felonious intent. A mere intentional trespass upon another's goods does not constitute the crime.

EMINENT DOMAIN—RIGHT OF RAILROAD COMPANY TO CROSS TRACKS OF ANOTHER.—1. Where a railroad company was chartered by the legislature, but the charter gave it no power to condemn a right of way over the track of another railroad company, and where, subsequently, it made application to the proper authority to amend its charter in certain specified particulars, and also to adopt the provisions of the general railroad law of this state "as far as applicable," and such application was granted, section 2167 of the Civil Code, giving the right to acquire a right of way over the track of another railroad company by condemnation, became incorporated into its charter, although under the original charter such right of way could be acquired only by contract, lease, or purchase.

2. Such company has, however, no right of power to cross the track of another railroad company without first acquiring such right or power and paying such just compensation therefor as may be fixed by contract or by condemnation proceedings instituted under the law enacted for that purpose. *Atlantic etc. R. Co. v. Seaboard A. L. Ry.* (Ga.), 42 S. E. 761.

The Virginia statute corresponding to section 2167 of the Civil Code of Georgia, is section 1094 of the Code of 1887, as amended by Acts 1893-4, p. 186, by which the proceeding is prescribed and the rights of all parties provided for. In *C. & W. R. Co. v. W. C. & St. L. Ry. Co.*, 99 Va. 715, 7 Va. LAW REGISTER, 611, the right of one railroad company to condemn land of another was held to be not open to collateral attack, but to be finally determined in the condemnation proceeding.